

BOARD OF ADJUSTMENT PUBLIC HEARING

Monday, October 15, 2012
Administrative Center – County Board Room
6:00 p.m. – 7:41 p.m.

MEMBERS PRESENT: Howard Raymer, Jr., Dave Eilertson and Mark Huesmann
MEMBERS EXCUSED: None
MEMBERS ABSENT: None
OTHERS PRESENT: Nathan Sampson, Chad Vandenlangenberg (minutes)

CALL TO ORDER

Howard Raymer, Jr., Chair, called the meeting to order at 6:00 p.m. Let the record show that this meeting is called in full compliance with the requirements of Wisconsin Open Meetings Law.

APPEAL NO. 2012-49 Charles F & Cindy A Lipke, W6584 Red Oak Glen, Onalaska, WI 54650. Permit denied to construct a 10-ft x 20-ft detached accessory building that will lie within the required 50-ft setback from a front lot line. Property is described as: Lot 13 of Apple Valley Estates II. Town of Onalaska. Tax Parcel 10-2244-0. Property address is W6584 Red Oak Glen.

Appearing in favor: Charles Lipke, W6584 Red Oak Glen, Onalaska, WI 54650.

Mr. Lipke explains his situation. The property is sloped and wooded. Moving further away from the road would require lots of excavation and tree clearing. The shed will be above the road and the trees really block the view of it for the neighbors.

Question Eilertson: What will you use the building for?

Answer Lipke: Storage of canoes, lawnmower, tools, gardening stuff.

Question Eilertson: Will you be pouring a concrete slab?

Answer Lipke: I'm planning on putting it on posts and a plywood deck.

Question Eilertson: Can you get the project done in 12 months?

Answer Lipke: Yes. And, if I can add that the shed will look the same as the house...siding, etc.

Appearing in opposition: None.

Correspondence: 1) Town of Onalaska email from Clerk Melissa Erdman on Wed. Oct. 10, 2012. The Planning Commission and Board met and this appeal was approved by both.

Discussion: Mr. Eilertson states that the property does have some slope limitations.

Motion Eilertson/Huesman to APPROVE subject to condition that the variance will expire in 12 months..

3 Aye, 0 No. Motion carried unanimously.

APPEAL NO. 2012-50 David Koudelka; acting on behalf of Advantage Rental Property, PO Box 810, Onalaska, WI 54650. Permit denied to construct a proposed 40-ft x 32-ft commercial building that will partially lie within the required 25-ft side and rear yards and the required 60-ft setback from a town road centerline; and to construct this commercial building with a finished first floor 2-ft above Base Flood Elevation (BFE) instead of the required 3-ft, providing fill 1-ft above BFE to a 5-ft perimeter around the southwest, southeast and northeast sides of the building in lieu of the required 15-ft. Property is described as: Part of the SW/SE, Section 19, T17N, R7W. Town of Onalaska. Tax Parcel 10-455-1. Property address is W7061 Front Street.

Appearing in favor: David Koudelka, W3730 Wolter Rd, West Salem WI, 54669.

Mr. Koudelka explains that the proposed building will be used to house large commercial agricultural equipment, fertilizer and seed storage. Layout and size of the property make it difficult to construct

anything that would meet the required setbacks. The property has had issues with vandalism in the past when leaving equipment or goods outside. This proposal should not harm the public in any way and may benefit aesthetically.

Question Huesman: How long have you owned the business?

Answer Koudelka: Since 1999.

Question Huesman: You mentioned that you have had damage in the past. Have you ever filed a police report?

Answer Koudelka: Yes.

Question Eilertson: Do you own this other building here, the tanks and everything along here?

Answer Koudelka: Yes.

Question Eilertson: Have you ever experienced any flooding?

Answer Koudelka: No. When we built it, we talked to the neighbors and built it two feet higher than where there was flooding back in the 1980's.

Appearing in opposition: None.

Correspondence: 1) From the applicant sent to our office on 9/25/12, this is clarification on the perimeter fill variance. 2) From the Town of Onalaska Clerk, Melissa Erdman dated and received 10/10/12 indicating that the town Planning Commission and Board both met and recommend approval of this variance.

Sampson: I also had a phone conversation with Jordan Thole from the Wisconsin DNR earlier today. He stated that the WDNR has no problem with this appeal other than that they would ask that a retaining wall be used at the terminus of the 5-ft perimeter fill area.

Discussion: Discussion regarding the retaining wall requirement. Raymer indicates that can be a condition of the approval.

Question Eilertson: Can you get this done in one year?

Answer Koudelka: Yes.

Motion Eilertson/Huesman to approve with conditions: 1. Variance expires in 12 months 2. Retaining walls are required around the perimeter fill.

Comment Sampson: There is no Base Flood Elevation determined for this site, as of yet. We estimate it to be between 652 and 654. Lowest floor needs to be 2 feet above BFE and perimeter fill 1 foot above.

3 Aye, 0 No. Motion carried unanimously.

APPEAL NO. 2012-51 Bruce R & Ellen P Bennett, 4772 Stone Road, Virginia Beach, VA 23457-1410. Permit denied to construct an upper level 10-ft x 62-ft attached deck that will lie within the required 25-ft rear yard. Property is described as: Lot 10 and part of Lot 11, Block 1 of the Lakewood Addition to the Town of Onalaska. Tax Parcel 10-2121-0. Property address is W7641 County Road ZB.

Appearing in favor: Bruce Bennett, 4772 Stone Road, Virginia Beach, VA 23457.

Mr. Bennett explains that this home is a second home for him and his wife. Purchased in 2004 as a retirement home. Had an existing deck and hoped to repair it, but after further inspection, it needed to be rebuilt. Proposing to replace and adjusting the size so that it fits inside the rear property line. House was clearly built to have an upper deck with three sliding doors on the upper floor and a full walk out basement. There is really no other place to put the deck and maintain egress from the second floor. Can't see it from the road as it is in the back. The neighbors are in support. Met with the township and have their recommendation for approval.

Question Eilertson: What was the size of the old deck that you removed?

Answer Bennett: That was 10 x 62, the full length of the house.

Question Huesman: So, if I understand it. The footprint is slightly smaller?

Answer Bennett: Correct. When I originally proposed it, I was thinking of going 10 x 58. After working with Chad, I agreed to notch it out to make it smaller and not infringe over the lot line.

Discussion: regarding how the house was built where it was without a variance in the past.

Comment Bennett: There was a variance for the attached garage and the setback from the road. My understanding is that when the house was built, they enforced the 75 foot setback from the water and not the 25 foot setback from the rear lot line.

Comment VandenLangenberg: The original permit for the house should be in the file. This permit applies the 75 foot setback and not the 25 foot setback. We are applying both standards today.

Appearing in favor: Jay Carley, W7627 County Road ZB, Onalaska, WI 54650.

Mr. Carley indicates support for the variance. This proposal is consistent with the rest of the neighborhood. The house and yard were in great disrepair and Mr. Bennett has greatly improved the property.

Appearing in opposition: None.

Correspondence: 1) Have a letter from one of the neighbors in support 2) Letter from Melissa Erdman, Town Clerk of Onalaska, dated 9/13/12 indicating that the Town's Planning Commission and Board have recommended approval 3) From Mike Wenzholz, WDNR dated 10/12/12 indicates that the request should be denied if the applicant cannot prove the three variance criteria.

Comment Sampson: Regarding the WDNR correspondence...this appeal is to the rearyard setback under the General Zoning Code and the proposal meets the required setbacks under the Shoreland Zoning Code. This is not an after-the-fact appeal.

Discussion: Raymer states that the house is pretty much unusable without the deck. Eilertson states that there is a possible safety issue.

Motion Huesman/Eilertson to Approve.
3 Aye, 0 No. Motion carried unanimously.

APPEAL NO. 2012-52 Ernest Padgett, 1711 Lakeshore Dr, La Crosse, WI 54603. Permit denied to construct an approximate 39-ft x 85-ft single family residence with attached garage, covered porch and 8-ft x 12-ft concrete patio slab that will lie within the required 52-ft setback by average from the ordinary high water mark of French Slough and within the required 50-ft setback from the right-of-way of Lakeshore Dr (County Road BW. Property is described as: Part of Government Lot 9 in Section 19, T16N, R7W. Town of Campbell. Tax Parcel 4-718-1.

Appearing in favor: Ernest Padgett, 1711 Lakeshore Dr, La Crosse, WI 54603.

Mr. Padgett explains he has been working with Land Conservation, Zoning, Highway and the WDNR on this proposal. Hired a surveyor. The WDNR was concerned with water runoff. We worked with Mary Jo Webster and created a couple of rain gardens. We also flipped the garage to the other side and we downsized the house just a little bit. We have also moved the house away from the buried culvert and also created an easement over it.

Question Raymer: I was over there this morning...the orange stakes, is that where the house is going?

Answer Padgett: No, those are wrong. Those are from the old house. We moved it over 6 feet towards my house. I have some pictures and renderings of what the house would look like on this lot.

Appearing in opposition: None.

Correspondence: 1) Letter from the Padgetts to the County Highway Department (Ron Chamberlain), dated 9/17/12 indicating that they will grant an easement to the county for the culvert/drainage system

2) From Ron Chamberlain on 9/7/12 to Chad VandenLangenberg regarding the easement and culvert/drainage system and the department is still in objection to the project unless something is provided in writing regarding the easement and if improvements are not proposed to be constructed over the culvert 3) From Mike Wenholz with the WDNR dated 10/12/12 indicating that the structure is too large for this lot and that the department does not see any unique property features or unnecessary hardship and recommends denial.

Discussion: Raymer indicates that this plan did not change much from the previously denied appeal. Eilertson states that it appears they made it narrower. Huesman comments that this is new construction on a vacant lot. Eilertson states that the board has not looked favorably on these types of variances in the past as it would be a self-imposed hardship. Raymer points to the fact that the house is still 35 feet deep.

Motion Huesman/Eilertson to DENY

3 Aye, 0 No. Motion carried unanimously.

APPEAL NO. 2012-53 Dawn R & John E Osley, N8208 State Road 108, Mindoro, WI 54644. Permit denied to construct an approximate 12-ft x 6-ft attached deck that will lie within the required 50-ft setback from State Road 108 right-of-way. Property is described as: Part of the NW/SE, Section 21, T18N, R6W. Town of Farmington. Tax Parcel 5-941-0. Property address is N8208 State Road 108.

Appearing in favor: Dawn Osley, N8208 State Road 108, Mindoro, WI 54644.

Mrs. Osley explains that she is disabled and thus needs a safer ingress/egress to her house, thus the reason for the new deck. The older steps into the home need to be replaced. There is currently a five foot wide concrete stoop there.

Question Eilertson: Will this have a roof on it or is it just a deck with railings? And, will never be enclosed?

Answer Osley: No. We are just proposing a deck with railings...no roof.

Appearing in opposition: None.

Correspondence: None.

Question Sampson: Mrs. Osley, have you contacted the Town of Farmington regarding this?

Answer Osley: I did call and talk to someone, I can't remember his name. He told me to send him something and that they wouldn't have a problem with it.

Comments Sampson: And, the town is advisory only on this.

Discussion: Huesman indicates that if she has a disability, that is a hardship. Raymer states that a condition of approval can require that it remain open.

Motion Eilertson/Huesman to Approve with the conditions that it be completed in 12 months and that it remain an open deck.

2 Aye, 0 No. Motion carried unanimously.

APPEAL NO. 2012-54 Benjamin J Breidenbach, N5498 State Road 35, Onalaska, WI 54650; acting on behalf of Michael J & Angela D Horge, W6884 Cloverdale Rd, Onalaska, WI 54650. Proposed parcel split of a non-conforming lot zoned Residential District "A" will further reduce the lot area below that required for a lot not served by public sanitary sewer. Property is described as: Lot 1, Block 1 of the Cloverdale Addition to the Town of Onalaska. Tax Parcel 10-832-0. Property address is W6884 Cloverdale Rd.

Comments Huesman: For the record, I will need to abstain on this matter as it poses a conflict of interest for me.

Appearing in favor: Ben Briedenbach, N5498 State Road 35, Onalaska, WI 54650

Mr. Briedenbach explains that their business is located at N5498 State Road 35 and they are pursuing a parking lot expansion through the purchase of land from the neighbor. The purchase decreases the lot size and requires a variance. Business parking lot is inadequate due to growth in the business. The business lot is very limited. State Road 35 is slated to be redone in the next couple of years and the business entrance will stay when this is done. I have provided a statement from the neighbors which should be in the file.

Question Eilertson: How many vehicles will be able to be parked on the acquired land?

Answer Briedenbach: Four additional. My current parking lot is a problem, but will become more of a problem when they redo the highway. There are three or four spots that are currently in the road right of way.

Appearing in opposition: None.

Correspondence: 1) Authorization from the Horge's allowing Mr. Briedenbach to pursue this variance dated 9/25/12 2) From the Town of Onalaska Clerk, Melissa Erdman dated 10/10/12 indicating that the towns Planning Commission and Board met and that they are recommending approval.

Comments Sampson: Mr. Briedenbach is also pursuing a rezone of the land he wishes to purchase that will be heard on 10/29/12.

Discussion: Eilertson indicates that the law does not require a secondary/replacement drainfield area, the loss of this land doesn't pose any problems.

**Motion Eilertson/Raymer to Approve. Huesman Abstained
2 Aye, 1 Abstention. Motion carried unanimously.**

APPEAL NO. 2012-55 Richard Berg, W7463 Sylvester Rd, Holmen, WI 54636; acting on behalf of Ruth Marco, W5992 Bucklin Rd, Onalaska, WI 54650. Appeal to retain two (2) existing detached accessory buildings with a combined area of 2,450 sq.ft. which exceeds the area limit and one (1) which will exceed the height limit for such buildings. Said buildings also do not meet the required setback requirements. All on a proposed 3.955 acre parcel resulting from a lot split. Property is described as: Part of the SE/SW, Section 27, T17N, R7W. Town of Onalaska. Tax Parcel 10-731-0. Property address is W5992 Bucklin Road.

Comments Huesman: For the record, I will need to abstain on this matter as it poses a conflict of interest for me.

Appearing in favor: Richard Berg, W7463 Sylvester Rd, Holmen, WI 54636.

Mr. Berg states that he is here on behalf of the homeowner. I am the surveyor, hired to split the parcel into two lots. We have rezoned the property, approved by the town and county and the Certified Survey Map has been approved by the town. The creation of this two lot CSM did not create the problem as the buildings have been there for a long time. They would not meet the requirements if this were one lot or two. The area and setback requirements would remain the same either way. The road splits the parcel into two parcels already. I do question whether or not a variance is required as my interpretation of the Zoning Ordinance General Provisions under section 17.10 indicates the ordinance only applies to buildings erected after the ordinance adoption date.

Appearing in opposition: Chris Carlson, W5969 Bucklin Rd, Onalaska, WI 54636.

Mr. Carlson explains that he lives just north of the subject property. I did not object to the rezoning as I had spoken to the Town Chairman. The barn is in very bad condition and is about to collapse. When I talked to the chairman, the new owner of the property would need a variance and it would be limiting to the property. He indicated that if a new home was proposed the town would require removal of the shed and barn. I am concerned because the buildings are too close and over the size limit and we don't know

what will happen with the property. The road is only 20 feet wide and there is nowhere to go with the snow and the bus goes up there. I am also concerned over fire protection. I think we need to wait to find out what the intent of the new owner is. The town has indicated that they may pursue widening the road and maybe putting in a cul-de-sac.

Comments Sampson: The issue here is the property split. The split further reduces the parcel size. These buildings are not non-compliant, they are non-conforming. They were in existence when the ordinance was adopted. The board has acted on numerous properties in the Exclusive Ag. District when farm parcels are broken up. I would also like to clarify the use of the property...anything allowed in the Agricultural District A is allowed. They can't start a commercial use in those buildings.

Correspondence: 1) Email from the Town of Onalaska Clerk, Melissa Erdman dated 10/11/12 indicating that the Town Planning Commission and Board have met on this appeal and recommend approval of this appeal.

Discussion: Raymer, if I understand this, if they don't split the parcel then the buildings can stay as is. We could allow the split, but the buildings need to be removed. Eilertson explains that the buildings are well beyond their economic life. Raymer states that they are both too close to the road and in the road. Eilertson questions what the buildings are use for. Raymer states that a motion could be made to allow the parcel split, but then the buildings have to be removed.

Motion Eilertson/Raymer to Approve the parcel split with the requirement that the two buildings be removed within 12 months.

2 Aye, 1 Abstention. Motion carried unanimously.

APPEAL NO. 2012-56 James R & Roxanne Lonkoski, 4234 Frank Ct, La Crosse, WI 54601. Permit denied to construct a 12-ft x 20-ft addition to an attached garage that would lie within a required sideyard, within the 25-ft required setback from the Frank Court right-of-way, and would result in a combined sideyard of less than 20-ft. Property is described as: Lot 9 and part of Lots 10 and 11 of Leisgangs Addition to the Town of Shelby. Tax Parcel 11-2403-0. Property address is 4234 Frank Court.

Appearing in favor: Mason Tram, 125 North Main St, Stoddard, WI.

Question Raymer: You are acting on behalf of the owners?

Answer Tram: Yes. We are asking for this variance due to the limited parking on the property. Only a two car garage and only room for two cars in the driveway. They have three vehicles. They have purchased land from the neighbor. Asking for a two foot variance from the lot line.

Question Eilertson: What is this utility easement to be vacated?

Answer Tram: There are actually no utilities even in there. We've had diggers hotline to the site.

Question Huesman: Who is the utility in favor, what company or entity?

Answer Tram: Phone company, but there is nothing there.

Question Huesman: How do we know it is vacated? That is a problem.

Answer Tram: That is something that I would need to get. Shouldn't that be something that is listed if there is something that I would need to get?

Comments Raymer: You will need to get something in writing. They need to agree to vacate it. We can't allow you to build in it.

Question Eilertson: The existing pool and deck were built within the setback?

Answer Tram: Those are both existing and have been there for quite some time.

Appearing in favor: Roxanne Lonkoski, 4234 Frank Ct., La Crosse, WI, 54601.

Mrs. Lonkoski indicates that she may be able to explain the easement issues in more detail. There is an existing fenceline between the properties and the neighbors and us believed that this was the property line. We purchased over 20 years ago and the deck and pool were existing. We knew about the

easement, but we thought it was along the fenceline. Once we found out that this was not correct, we corrected the property line through a survey and sale. There is nothing in the easement except for a pedestal that is on the property line that we thought was the line. The garage is nowhere near there. The deck and pool were on the easement when we bought it. None of the utilities want to use the easement. What is the difference between vacating and amending the easement?

Comment Eilertson: Vacating it would be getting rid of it in its entirety.

Comment Huesman: Either way, the problem is that there is a valid easement that exists. There doesn't appear to be anything recorded to the contrary. The easement has not been relinquished or abandoned.

Comment Lonkoski: They are going to do that, it just hasn't happened yet. I am worried about the weather and getting this project done yet this year.

Question Eilertson: Have you talked to your attorney about helping you with this? That is a step that I would recommend you take.

Answer Lonkoski: No. We have talked to the telephone company and he was talking to their legal department.

Comment Huesman: I would agree with Mr. Eilertson. This puts us in a tough position. The point is that the easement is there when they need it at any time in the future.

Comment Lonkoski: We did talk to Shelby and they are ok with it.

Comment Raymer: We can't grant this assuming that they will vacate it. What happens if they decide not to vacate it.

Comment VandenLangenberg: The department cannot issue a permit for anything in an easement.

Comment Raymer: So, if we grant the variance, if the easement doesn't get vacated, you won't be able to get it vacated.

Comment Sampson: The phone company doesn't own the easement. The easement was approved when the original plat was approved. There are approving authorities; city, town, planning commission, zoning. Those authorities need to release the easement or approve the vacation request. Variances can be granted with conditions. We would not release a permit until those things happened.

Comment Raymer: So, we could grant with that stipulation.

Appearing in Opposition: None.

Correspondence: We do have draft minutes from the Town of Shelby board meeting dated 10/8/12 received on 10/9/12. The town motioned to recommend approval of this variance.

Motion Eilertson/Huesman to approve subject to getting the easement abandoned and after abandonment they would have 12 months to construct.

3 Aye, 0 No. Motion carried unanimously.

APPEAL NO. 2012-57 David J & Stephanie Gramling, 710 Deerwood St, Holmen, WI 54636. Permit denied to construct a 28-ft x 30-ft (840 sq. ft.) detached accessory building that will exceed the 750 sq. ft. area limit for such buildings on this 0.66 acre lot. Property is described as: Lot 21 and the East 25-ft of Lot 22, and part of vacated Maple Drive, Maple Shade Addition. Town of Onalaska. Tax Parcel 10-1508-0. Property address is @7890 Maple Drive.

Appearing in favor: David Gramling, 710 Deerwood St, Holmen, WI 54636.

Mr. Gramling indicates that the property is fairly unique in that there was an existing house that was destroyed by fire. There exists an old 18' x 30' shed in the backyard, but it is basically a hazard. The foundation is good, but unique in that there is a 2 foot height difference from one side to the other. I am allowed up to a 25' x 30' (750 square foot) building. To add just 7' x 30' I would end up with interior space of 6' x 30' which is basically a tunnel. It wouldn't be usable space. Rather than tearing out the foundation and build new, I would like to add 10', then I can get a garage door in. I would be 3' x 30' over the allowable limit. Building use would be storage. Lot is 25 feet wider than the rest along that street. There are other buildings in the area larger than the one I am proposing. Due to the slope, the roof of the building will barely be visible. It's along the railroad tracks, so no neighbors to the rear. I do have a letter from the neighbors.

Comments Sampson: You can read that into the record.

Gramling reads letter from the neighbor in favor of this appeal.

Question Eilertson: The intended use of the garage is for storage of a boat, etc. Where is that sitting now? In the yard?

Answer Gramling: Yes.

Question Eilertson: So, everything in the yard will go in this building?

Answer Gramling: Yes.

Comments Gramling: Currently where I live, my camper is in my garage. My boat is in my parents yard. When I move here, those things will be moved here as well.

Question Huesman: What do you do for a living?

Answer Gramling: I sell building materials.

Question Huesman: Do you intend any commercial use for this?

Answer Gramling: No.

Appearing in Opposition: None

Correspondence: From Melissa Erdman, Clerk for the Town of Onalaska dated 10/10/12 indicating that the Planning Commission and Board had recommended approval.

Comments Eilertson: In order to utilize this space under the current conditions he has designed a plan that will work.

**Motion Huesman/ Eilertson to Approve subject to the variance expiring in 12 months.
3 Aye, 0 No. Motion carried unanimously.**

Question Sampson: If I could ask you to clarify the boards position on Appeal #2012-55, the Berg appeal. That was actually a denial, correct?

Answer Raymer: That is correct.

Comments VandenLangenberg: The board's motion was to approve the parcel split.

Comments Sampson: They cannot act on a lot split. The appeal was for the retention of the square footage (of detached accessory buildings).

**Motion Eilertson/Huesman to adjourn at 7:41 pm.
3 Aye, 0 No. Motion carried unanimously.**